

MEETING #32 - September 5

At a Continued Meeting of the Madison County Board of Supervisors on September 5, 2018 at 6:00 p.m. and a Joint Meeting of the Madison County Board of Supervisors and the Madison County Planning Commission on September 5, 2018 at 7:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: R. Clay Jackson, Chairman
Jonathon Weakley, Vice-Chairman
Kevin McGhee, Member
Charlotte Hoffman, Member
Amber Foster, Member
Jack Hobbs, County Administrator

6:00 p.m.

Call to order

Chairman Jackson called the continued meeting to order.

1. Determine Presence of a Quorum/Adopt Agenda

2. Public Comment

3. Closed Session [Personnel-County Attorney]

a. Closed Session: On motion of Supervisor Weakley, seconded by Supervisor Hoffman, the Board convened in a closed session pursuant to:

1. *Virginia Code Section 2.2-3711(A)(1) for discussion on prospective candidates for appointment as the County Attorney, where such consultation or briefing in open meeting would adversely affect the negotiation or litigating posture of the public body. Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

b. Motion to Reconvene in Open Session: On motion of Supervisor Weakley, seconded by Supervisor Hoffman, the Board reconvened in open session, with the following vote recorded: *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

c. Motion to Certify Compliance: On motion of Supervisor Weakley, seconded by Supervisor Foster, the Board certified by roll-call vote that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code 2.2-3711(A)(1) and only matters that were identified in the motion to convene in a closed session were heard, discussed or considered in the closed meeting. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

Supervisor Foster moved that the Board recess until after the meeting of the meeting of the Madison County Planning Commission, seconded by Supervisor McGhee. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

7:00 p.m. - Joint Meeting

PRESENT: R. Clay Jackson, Chairman
Jonathon Weakley, Vice-Chairman
Kevin McGhee, Member
Charlotte Hoffman, Member
Amber Foster, Member
Jack Hobbs, County Administrator
Sean Gregg, Interim County Attorney
Betty Grayson, Zoning Administrator

1. Call to Order

Mr. Yowell, Commission Chair, called the Joint Meeting to order.

Pledge of Allegiance & Moment of Silence

2. Determination of a Quorum

Mr. Yowell, Commission Chair, noted that a Quorum was present

3. Approval of Minutes

The minutes of the August 1, 2018 meeting were approved as presented. July 5, 2018 meeting were approved as presented.

4. Action Items:

48-131 *a. Case No. SP-09-18-10: Request by Heinz D. Heidrun E. Wieland for a site plan and soil and erosion plan for the construction of a road. The disturbed acreage for the road construction will be 11.3 acres. This property is located off Route 29 Southbound Lane and private Madison Plaza Drive and contains 34.675 acres of land near Madison, zoned Conditional Business B-1. This case was tabled by Bill Gentry by email received on August 30, 2018 until the October 3, 2018 Joint Meeting.*

Mr. Yowell provided an overview of tonight's meeting process. Representatives were asked to approach the podium to provide their name and any information pertinent to tonight's case; questions will be entertained by the Commission members, the public, and then the case will be recommended onto the Madison County Board of Supervisors either for approval, denial or tabling. In closing, he asked that applicants remain for the Madison County Board of Supervisors portion of tonight's meeting.

55-43F *b. Case No. SP-09-18-11: Request by Jerolyn Armstrong Martin for a site plan for additions to the existing structure to enlarge restaurant seating and kitchen. This property is located at the intersection of Route 29 Northbound Lane and Route 662 (Shelby Road) and contains 1.346 acres of land, zoned Business, B-1. The address at the property is 3800 Shelby Road. The final plan has approval from Susan Fortenberry at the Madison Health Department on August 9, 2018 and has approval from Adam More of VDOT on August 10, 2018. A letter was received from Harriet Moncrief (3929 Shelby Road, Rochelle, VA) and read for the record as follows:*

"Dear Planning Commissioner,

I write you with great concern about a supposedly simple Wine & Cheese Shop on the southeast corner of Router 662, East.

Recently, big green tanks were installed so that they can add cooked food which was not in the original plan.

Now I understand they will be coming to you to expand the building. That sounds like they have completely left the original plan and does not belong in our quiet neighborhood. I hope that this request to make the building larger will not get approval from you. Larger means more people and noise in our quiet area. Houses are near to this business. Please come and see the area. Thank you for your time."

Deborah Belew, Contractor, was present and advised that the green tanks are the alternative septic system that has been put into the ground as required by the Madison Health Department. The addition being proposed is for the kitchen because the area is currently very small. The area being proposed is 18' x 10' along with a covered porch to allow folks to dine outside underneath a covered area. Parking will be added to the covered porch area. An additional fifteen (15) parking spots will be initiated with handicap parking on the other side of the building.

The floor was opened to the general public. The following individual(s) provided comment(s):

- George Carol (Dun Glory Drive) was present to verbalize concerns regarding parking and traffic; noted the intersection is dangerous; concerned about serving of alcohol.
- Ann Yowell (Rt. 29 S - *beside Bavarian Chef*) was present to verbalize concerns about how the proposed business will affect Bavarian Chef Restaurant and the additional parking that is being initiated (dangerous intersection on Route 662); feels the original proposed plan has been completely changed; concerned that the proposed business will serve alcohol and plans to have a play area for kids on the premises; feels the intersection is too dangerous for what's being proposed to the County; feels that (in her opinion) the proposal is a 'recipe for disaster.'
- Hilda Shriver (Shelby Road) was present to verbalize concerns that traffic from Charlottesville turning into the restaurant will be unable to see vehicles exiting the vehicle (i.e. vehicles will be backing out) which will cause additional accidents in the area.
- Pat Eppard (Shelby Road), was present and questioned why the County needs another restaurant in the County; suggested the place be turned into a place for the youth to have somewhere to go (recreational activity) at a minimal cost; suggested that something be done to discourage the youth from leaving the locality to find a place to live.

Additional comments focused on:

- ❖ Proposed seating capacity
- ❖ Original plan has been changed

Mr. Yowell, Chair, advised that the seating capacity will be for forty (40) persons.

Ms. Belew noted that during the ABC Board hearing, the seating capacity was indicated to be for forty (40) persons (i.e. never only fifteen [15]). The parking area will be fenced as will the play area for the children. It was also noted that the parking plan is being put into place before further groundwork is initiated (i.e. survey). Additional comments focused on the original plan to open a wine/cheese shop; however, when the ABC licensure was being sought, it was decided to add the serving of beer. Alcohol will not be served at this point or hot sandwiches, but a soup kitchen, and install a grease trap while the ground is open. In closing, she noted that vehicles will not be backing into one other, as there will be sufficient lighting in place. VDOT was asked to move the entrance, which they wouldn't allow, but that work is being proposed at the Shelby Road intersection (J-turn to be installed), and that the business will not plan to operate at all hours.

Mr. Yowell, Chair, noted that some fencing at the area is already in place. It was also reported that the seating capacity at the proposed restaurant will be for forty (40) persons, as approved by the Madison Health Department. It was also noted that the original plan was only for fifteen (15) persons.

Additional comments focused on the proposed "J-turn" which will not be complete for the next 3-5 years.

Betty Grayson, Zoning Administrator, advised that any time a business is serving any type of food, the business is considered to be a 'restaurant', (based on the definition of a 'restaurant' in the Zoning Ordinance). Additionally, whenever there is a request to add an addition over 500 sq. ft., the site plan needs to be approved. The applicant did attain zoning and building permits for the remodeling of the building when they were planning to open a wine/cheese shop and cold sandwiches; however, once they decided to serve hot sandwiches, they had to install a hood. The request for an addition affected the site plan and required approval from VDOT and the Madison Health Department. In closing, she noted that the site is zoned Business, B-1 and the restaurant is allowed 'by right.'

Comments from the Commission:

- ❖ Charles M. Fisher: Feels the intersection is dangerous; referred to VDOT's proposal to install a "J-turn" at Shelby Road; noted that the County's comp plan refers to the County's desire to be 'business friendly'; feels that more local business will eliminate the need to raise County taxes; verbalized support of the proposed business.
- ❖ Pete Elliott: Concurred with comments that the area is a dangerous intersection; referred to the fact that the applicant has done all that has been required and has attained approval from VDOT and the Madison Health Department; verbalized support of the proposed business endeavor.
- ❖ Peter Work: Advised that the use being proposed is 'by right' and isn't something that the County can change at tonight's meeting; verbalized that tonight's issue involves the site plan; tonight's concerns,

After discussion, the Madison County Planning Commission recommended that Case No. SP-09-18-11 be presented to the Madison County Board of Supervisors for approval 'as is.'

- 41-6 c. Case No. S-09-18-12: Request by the O. F. Carpenter Co., LLC for a plat of a subdivision of land to create two (2) lots with residue. Lot 1 and Lot 2 will be served by the same entrance. Lot 2 is a pipe stem to Route 607 (Lillard's Ford Road) and Lot 1 has a 50 x 50 driveway entrance easement across the pipe stem. This property is located on Route 607 (Lillard's Ford Road) at Brightwood, zoned A-1. The final plat has been from VDOT and the Madison Health Department.

Pete Elliott, Commission member, abstained from voting on the case (rents from O. F. Carpenter)

Al Esh was present and advised that he is purchasing the aforementioned property from Mr. Jordan, who represents the property owner.

Mr. Yowell, Commission Chair, asked for an explanation from Mr. Jordan as to how the pipe stem will work.

Mr. Jordan referred to the County's guidelines regarding a pipe stem and noted that VDOT requested another entrance on the property not be established. The 300' pipe stem will be owned by Lot 2 and the right-of-way will come into Lot 1.

After discussion, the Madison County Planning Commission recommended that Case No. S-09-18-12 be presented to the Madison County Board of Supervisors for approval.

Mr. Yowell, Commission Chair, advised that the next workshop session will be scheduled for September 19, 2018 at 7:00 p.m.

Fay Utz, Commission member, asked the members to read information provided on Article 14-16-1, Residential business and/or solar energy system. The language provided is what should've been approved and added to R-1, R-2 and R-3, approved on 11/1/17. The amendment will need to be discussed during a public hearing and approved as a separate ordinance for inclusion to the existing ordinance in order to meet all federal/state requirements. It was also suggested there be some discussion on solar energy systems to be added to A-1, B-1 and C-1. Documentation from PD9 on utility solar energy systems will be discussed at the October 17th workshop session. Any questions on today's information should be directed to the sub-committee members (i.e. Fay Utz, Charles M. Fisher, Mike Mosko). It was also reported that Culpeper county just denied another solar farm request.

5. Adjournment:

With no further action being required, Mr. Yowell, Chair, adjourned the Madison County Planning Commission portion of tonight's meeting session.

Board of Supervisors:

Call to order

Chairman Jackson called the Board of Supervisors' portion of tonight's meeting back to order.

1. Determine Presence of a Quorum

All members are present. A quorum was established.

2. Adoption of Agenda

Chairman Jackson called for additions and/or adoption of tonight's agenda.

Items to be added include:

- *Item 5a (Recodification)*
- *Item 6 (Closed Session)*

Supervisor Foster moved that the Board adopt tonight's Agenda as amended, seconded by Supervisor Hoffman. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

3. Closed Session - moved to Item 6a

4. Action Items:

48-131 *a. Case No. SP-09-18-10: Request by Heinz D. Heidrun E. Wieland for a site plan and soil and erosion plan for the construction of a road. This case was tabled by Bill Gentry by email received on August 30, 2018 until the October 3, 2018 Joint Meeting.*

55-43F *b. Case No. SP-09-18-11: Request by Jerolyn Armstrong Martin for a site plan or additions*

- *Supervisor Foster: Questioned the type of food that will be offered; parking plan; verbalized appreciation (as the President of the Chamber of Commerce and small business owner) to small business owners in the County and the willingness of business owners to follow all requirements*
- *Supervisor Weakley: Questioned what 'dictates' the hours of operation and the type of lighting will be installed in the lot (i.e. downward facing)*

The applicant provided a brief overview of the items to be served (i.e. eat in or take out [sandwiches, ribs, salads, etc.]); establish, and also relayed that the alternative septic system is designed for a capacity of forty (40) people. Restaurant will be called "Jerolyn's Tasting Room."

Ms. Belew further noted that the alternative septic system is approved for a number of hours, but that there will be possibility increase the capacity after six (6) months (based on the reading of total waste collected). She also advised that the proposed lighting will be downward facing.

- *Chairman Jackson: Made reference to the County's knowledge of the crash history as the Shelby Road intersection; VDOT is proposing a "J-turn" (i.e. within three [3] years)*
- *Supervisor Hoffman: Advised that if a use is allowed 'by right' (in the County's Ordinance), the request has to be improved; understands citizen's concerns regarding safety and additional traffic; reiterated the fact that the Board of Supervisors is charged with making decisions for the County according to the adopted guidelines that are in place*

The applicant acknowledged that fact that there have been petitions to denote that twenty-seven (27) citizens in the Shelby

area are opposed to the proposed restaurant.

- Mark Dawson (Shelby Road): Encouraged the Board to promote small business in the locality

Supervisor Weakley moved that Case No. SP-09-18-11 be approved as recommended by the Madison County Planning Commission, seconded by Supervisor Foster. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

41-6 c. Case No. S-09-18-12: *Request by the O. F. Carpenter Co., LLC for a plat of a subdivision of land to create two (2) lots with residue.....*

- Fay Utz: Advised that the pipe stem hasn't been used; verbalized favor of the proposal

Supervisor Hoffman moved that Case No. S-09-18-12 be approved as recommended by the Madison County Planning Commission, seconded by Supervisor Foster. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

5. Discussion on Seasonal or Brief Use:

- *Chairman Jackson referred to the request to remove the definition of "use- seasonal or brief" as proposed by the Commission; feels the definition has been abused and there hasn't been an acceptable example provided; suggested the use be decreased from fifty-six percent (56%) [i.e. seventeen (17) days per month] down to a revised time frame that would be more in line with a 'seasonal or brief use'*
- *Supervisor Hoffman: Concurred with aforementioned comments*
- *Supervisor Foster: Suggested that this issue be assessed; also advised of concerns pertaining to cell towers and wedding events*
- *Supervisor Weakley: Suggested the matter be appropriately assessed; questioned how the use can be defined to help existing and future businesses here (i.e. number of days, type of use, etc.)*

After discussion, it was the consensus of the Board to suggest that the Madison County Planning Commission work to develop some ideas for review/consideration at the next meeting session.

Comments from the Commission focused on:

- ❖ Whether to decrease the total number of days per year to a set amount
- ❖ Request that a special use permit be attained for anything else
- ❖ County's desire to remain business friendly
- ❖ Much of the County is zoned agriculture
- ❖ Currently no definition in place (feels the Commission can draft something simple/applicable)
- ❖ What needs to be accommodated in other land zones
- ❖ Specific uses can be tied to a special use permit

a. Recodification: The County Administrator advised that Municode, Inc., has compiled all County ordinances; a draft report has been received on the recodification process. All materials have been posted to the County's website. A review of the document will be needed and comments will need to be returned to the vendor for further review and assessment. Budget discussions on rates, fees and taxes be removed out of the Virginia Codes and into an annual fee resolution that the County can work with during each budget cycle. Additionally, it was noted that job titles have changed and the Virginia Code doesn't match (i.e. County Administrator or 'Designee'). In closing, it was noted that modern practice calls for the recodification companies to post County codes on the locality's website (i.e. indexed and formatted), which is a service that's offered/agreed to, which may reduce the need for hard copies of the County ordinances. Maintenance protocol will need to be developed. It was suggested

that all changes to County ordinances be posted to the website for the public. A response is requested from the Board by the end of September 2018.

Comments from the Commission

- Charles M. Fisher: Suggested the review be a joint effort
- Peter Work: Advised that the Commission has been reviewing ordinances; suggested a concept plan be devised, but is improbable by the end of September 2018

The County Administrator advised that (in his opinion), the Commission's job is to review the Ordinances only; the recodification process involves a review of current State Code requirements.

Mr. Yowell, Commission Chair, suggested there be an assessment of all Ordinances in place through June 2017.

Betty Grayson, Zoning Administrator, advised that the County is currently using what's up to date at the time.

After discussion, it was advised that:

- All Board and Commission members should review the documentation on recodification posted to the website
- Commission representatives (Charles M. Fisher, Mike Mosko, Peter Work) will work with the County Administrator to provide input

6. a. Closed Session (Personnel/ County Attorney Interviews)

a. Closed Session: On motion of Supervisor Weakley, seconded by Supervisor Foster, the Board convened in a closed session pursuant to Virginia Code Section 2.2-3711(A)(1) for discussion on prospective candidates for appointment as the County Attorney, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. *Aye: Jackson, Weakley, McGhee, Hoffman. Nay: (0).*

b. Motion to Reconvene in Open Session:

On motion of Supervisor Weakley, seconded by Supervisor McGhee, the Board reconvened in open session, with the following vote recorded: *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

c. Motion to Certify Compliance:

On motion of Supervisor Weakley, seconded by Supervisor Foster, the Board certified by roll-call vote that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code 2.2-3711(A)(1) and only matters that were identified in the motion to convene in a closed session were heard, discussed or considered in the closed meeting, with the following vote recorded: *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

As a result of closed session:

Supervisor Weakley moved that the County Administrator and the Chairman of the Board move forward with contract negotiations for the prospective candidate for County Attorney, seconded by Supervisor Foster. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

7. Public Comment

8. Information/Correspondence

9. Adjournment

With no further action being required, on motion of Supervisor Weakley, seconded by Supervisor Foster, Chairman Jackson adjourned tonight's meeting.

R. Clay Jackson, Chairman
Madison County Board of Supervisors

Clark of the Board of the Madison County Board of Supervisors
Adopted on: September 11, 2018
Copies: Board of Supervisors, County Attorney & Constitutional Officers



Agenda
Continued Meeting
Madison County Board of Supervisors on Wednesday,
September 5, 2018 at 6:00 p.m.
&
Joint Meeting
Madison County Planning Commission &
Madison County Board of Supervisors
Wednesday, September 5, 2018 at 7:00 P. M.
County Administration Building Auditorium
414 N. Main Street, Madison, Virginia 22727

Board of Supervisors at 6:00 p.m.

Call to Order

Pledge of Allegiance & Moment of Silence

1. Determine Presence of a Quorum/Adopt Agenda
2. Public Comment
3. Closed Session [Personnel/County Attorney]

Planning Commission at 7:00 p.m.

1. Call to order
2. Approval of Minutes
3. Action Items:
 - 48-131 a. Case No. SP-09-18-10: Request by Heinz D. Heidrun E. Wieland for a site plan and soil and erosion plan for the construction of a road. The disturbed acreage for the road construction will be 11.3 acres. This property is located off Route 29 Southbound Lane and private Madison Plaza Drive and contains 34.675 acres of land near Madison, zoned Conditional Business B-1. ***This case was tabled by Bill Gentry by email received on August 30, 2018 until the October 3, 2018 Joint Meeting.***
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4. Adjournment

Board of Supervisors (Reconvene)

4. Action Items

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41-6 c. Case No. S-09-18-12: Request by the O. F. Carpenter Co., LLC for a plat of a subdivision to create two (2) lots with residue.....

5. Discussion of Seasonal or Brief Use

a. Recodification

6. [REDACTED] a. *Closed Session [Personnel - County Attorney Interviews]*

7. Public Comment

8. Information/Correspondence

9. Adjournment

AMENDMENTS DENOTED IN ROYAL BLUE WITH YELLOW HIGHLIGHT